

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION

**MICHAEL ANTHONY NASH,**  
**JIMMY SHAW, VINNIE CASON,**  
**GRANT LEWIS, and CHARLESTON**  
**TAURVONTA HARRIS,**

PLAINTIFFS,

vs.

**GREGORY CARR,**

DEFENDANT.

CIVIL CAUSE NO.  
4:25-CV-059-DMB-JMV

**DEFENDANT'S MOTION TO SET ASIDE  
ENTRY OF DEFAULT**

Defendant **GREGORY CARR** (Defendant or Carr) respectfully moves for the entry of an order which sets aside the default entered herein by the Clerk of Court on July 23, 2025 (ECF 14). In support of his motion, Defendant incorporates by reference hereto his memorandum of law and the declaration of counsel annexed hereto as Exhibit A. Additionally, Defendant states:

1. The five Plaintiffs filed their 22-page, 88-paragraph complaint against Defendant, the sole-operator of a family farming business, on May 15, 2025. The complaint is replete with detailed allegations of violations of federal laws, viz., the Migrant and Seasonal Agricultural Worker Protection Act (AWPA) and the Civil Rights Act of 1866 (42 U.S.C. § 1981), and of Mississippi law (breach of contract).

2. Plaintiffs applied for the entry of default against Defendant on July 21, 2025, within two hours after Defendant's counsel contacted Plaintiffs' counsel to request

1 a 21-day extension within which to file Defendant's answer or other responsive pleading.  
 2 Exhibit A, ¶ 10.

3 3. Under Federal Rule of Civil Procedure 55(c), "[t]he court may set aside  
 4 an entry of default for good cause." "The language of this rule is discretionary, and the  
 5 decision to set aside a default is committed to the sound discretion of the trial court."  
 6 *Moreno v. LG Elecs., USA Inc.*, 800 F.3d 692, 698 (5th Cir. 2015) (internal quotation  
 7 marks omitted). "To decide if good cause exists, courts consider three non-exclusive  
 8 factors: whether the default was willful, whether setting it aside would prejudice the  
 9 adversary, and whether a meritorious defense is presented." *Koerner v. CMR Constr. &*  
 10 *Roofing, L.L.C.*, 910 F.3d 221, 225 (5th Cir. 2018) (internal quotation marks omitted). A  
 11 court may also consider whether "the defendant acted expeditiously to correct the  
 12 default." *In re Dierschke*, 975 F.2d 181, 184 (5th Cir. 1992).

13 4. For the reasons set forth herein and in his accompanying memorandum  
 14 of law, Defendant respectfully urges the Court to exercise its discretion and to enter an  
 15 order setting aside the default.

16 5. Carr did not intentionally fail to respond to litigation, and the record  
 17 establishes that the default was not wilful. ECF 9, 10; *see also, generally*, Exhibit A.

18 6. Plaintiffs will not be prejudiced if the Court sets aside the default,  
 19 inasmuch as this case is in the pleadings phase; a case management conference has not  
 20 been set; and pre-discovery disclosures are not yet due. Hence, vacating the entry of  
 21 default will not be detrimental to Plaintiffs.

22 7. Carr has meritorious defenses to the claims asserted by the  
 23 plaintiffs. Plaintiffs' complaint fails to state a claim for relief under 42 U.S.C. § 1981

1 because Plaintiffs' pleading is not compliant with *Comcast Corp. v. National Association*  
2 *of African American-Owned Media*, 140 S. Ct. 1009 (U.S. 2020).

3 8. Regarding the alleged violations of the AWP, Carr's farming operations  
4 fall within the scope of the AWP's family business exemption to the AWP. 29 U.S.C.  
5 § 1803(a)(1).

6 9. Plaintiffs have failed to state a claim on which relief can be granted in  
7 relation to their state law breach of contract claim because they have not properly pleaded  
8 their alleged injuries and damages under Fed.R.Civ.P. 9(g).

9 10. Carr submits that his meritorious defenses weigh in favor of setting aside  
10 the default because the defenses, if accepted by a fact-finder, would produce a result  
11 different than the default sought by the plaintiffs. *Jenkins & Gilchrist v. Groia & Co.*, 542  
12 F.3d 114, 122 (5th Cir. 2008).

13 11. The clerk's entry of default was entered on July 23, 2025. Defendant  
14 filed his motion to set aside clerk's entry of default one day later, on July 24, 2025. Carr  
15 submits that the expeditiousness factor weighs in favor of setting aside the entry of  
16 default.

17 12. Carr submits that all of the *Koerner* and *Dierschke* factors weigh in favor  
18 of setting aside the entry of default.

19 RESPECTFULLY SUBMITTED ON THIS DATE: July 24, 2025.

20 /s/ Steve Brandon

21 Stephen A. Brandon (MB #8655)

22 **COUNSEL FOR GREGORY CARR**

**OF COUNSEL:**

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**CERTIFICATE OF SERVICE**

I, STEPHEN A. BRANDON, hereby certify that I have this day served upon all counsel of record a copy of the foregoing document, consistent with the Federal Rules of Civil Procedure and ECF filing and service practices and procedures, to wit:

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DONE ON THIS DATE: July 24, 2025.

/s/ Steve Brandon  
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